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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,667	03/29/2004	Derrick Douglas Little	9D-RG-20087 CIP	2435
7590 12/11/2008				
John S. Beulick Armstrong Teasdale LLP One Metropolitan Square, Suite 2600 St. Louis, MO 63102				
EXAMINER				
SUERETH, SARAH ELIZABETH				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
12/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/811,667

**Applicant(s)**

LITTLE ET AL.

**Examiner**

Sarah Suereth

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/28/08 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 5-7, 10-13, 16, 20-22, and 25-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (6234161) in view of Arai (4899028).

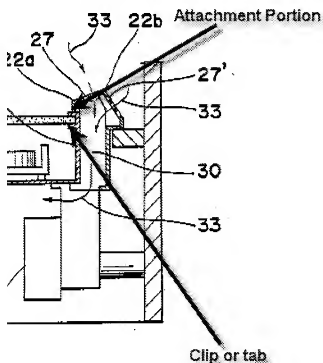
Levi discloses: a gas burner (20-23), a cooktop (15) configured to cover a burner box (102) and having at least one peripheral vent cut (Figure 2, shown by arrows near element 106) configured to vent outside air into the burner box to provide air for the gas burner (col. 4, lines 13-16); and a vent trim (13) attached to said cooktop and covering

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the vent cut (Figure 2), said vent trim having a surface with openings (120,121) above a top surface of the cooktop (Figure 1), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 4, lines 13-16).

However, Levi does not show the vent trim including either an attachment portion or clips having the claimed structure. It is unclear how exactly the vent trim is mounted to the cooktop surface.

Arai discloses a stove vent trim element (22) shown mounted to the rear surface of a cooktop (20). The vent trim includes an upper horizontal flange regarded as the claimed attachment portion, and a lower horizontal flange regarded as the claimed clips or tabular portion along the bottom of the cooktop surface. A portion of Arai Figure 2 has been relabeled below for clarity.



It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Levi apparatus to include the vent trim structure of Arai in order to further elevate the vent cover from the cooktop structure. Levi shows the vent cover essentially parallel, while Arai teaches a sloped surface. The sloped surface of Arai obviously aids in preventing liquids from accidentally entering the burner ventilation structure.

Regarding claims 6,7,12,13,21,22,27 and 28, the Levi vent cuts are regarded as "defined at a rear corner of said cooktop", as the vent cuts (120,121) are located in the rear corners of the cooktop (Figure 1), and also as being located "along an edge of said cooktop", as alternate vent cut (124) is located along the edge of the cooktop (Figure 1).

Regarding claims 10 and 25, the vent cover also has a raised surface that is capable of isolating the vent opening from spills on the cooktop (col. 2, lines 41,42).

As discussed above, Levi discloses the claimed invention with the exception of a mounting clip overlapping a bottom surface of the cooktop.

4. Claims 3, 4, 14,15,18,19,29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (6234161) in view of Arai (4899028), further in view of Taplan et al (5653219).

Levi, as discussed above, does not disclose sealing the vent trim to the cooktop with adhesive tape.

Taplan discloses fastening a vent trim element (15) to a cooktop (2) in water-tight engagement (col. 1, lines 48) with adhesive tape (col. 2, line 64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Levi apparatus to include the adhesive tape in order to provide a water tight seal between the cooktop and the vent cover (col. 1, lines 48).

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571)272-9061. The examiner can normally be reached on Mondays & Tuesdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sarah Suereth/  
Examiner, Art Unit 3749

/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749